

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION**

HYTHONYO PILLOW

PLAINTIFF

v.

No. 4:20-cv-222-DPM

**TIM RYALS, Sheriff, Faulkner County
Jail; KEVIN NEAL, Lieutenant, Faulkner
County Jail; RUSTY PAGE, Sergeant,
Faulkner County Jail; ROBERT DOYAL,
Corporal, Faulkner County Jail; and
REED MILLER, Captain, Faulkner
County Detention Center, Unit 1**

DEFENDANTS

ORDER

The Court adopts Magistrate Judge Ray's unopposed recommendation, *Doc. 11*, as supplemented. FED. R. CIV. P. 72(b) (1983 addition to advisory committee notes). The supplement: Pillow notes that while the toilet was broken, he was either taken to booking to use the bathroom or required to urinate in a mop bucket in his cell. *Doc. 5 at 5*. The Court concludes that the lack of a flushable toilet in the cell for a six-day stretch did not constitute punishment in violation of the Constitution. *Knop v. Johnson*, 977 F.2d 996, 1013 (6th Cir. 1992).

Pillow's complaint and amended complaint will be dismissed without prejudice for failure to state a claim. This dismissal counts as a "strike" for purposes of 28 U.S.C. § 1915(g). An *in forma pauperis*

appeal from this Order and accompanying Judgment would not be taken in good faith. 28 U.S.C. § 1915(a)(3).

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

18 December 2020